

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

SEP 27 2018

JULIA C. DUDLEY, CLERK
BY:  DEPUTY CLERK

UNITED STATES OF AMERICA

Case No. 5:10-cr-00026-1

v.

MEMORANDUM OPINION

RALPH LEON JACKSON,
Petitioner.

By: Hon. Michael F. Urbanski
Chief United States District Judge

Ralph Leon Jackson, a federal inmate proceeding pro se, filed a self-styled petition to take judicial notice and dismiss for lack of subject matter jurisdiction. The court construes the petition as a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 because Petitioner challenges the conviction and sentence for which he is currently incarcerated.

Court records indicate that the court already dismissed (Dkt. No. 108) a prior § 2255 motion (Dkt. No. 54) by which Petitioner could have raised the instant challenge. Thus, the § 2255 motion is a second or subsequent motion under 28 U.S.C. § 2255(h). See, e.g., Whiteside v. United States, 775 F.3d 180, 184 (4th Cir. 2014) (en banc); cf. United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014).

The court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not shown that he obtained that certification, the § 2255 motion is dismissed without prejudice as successive. Based upon the court's finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c) and Slack v. McDaniel, 529 U.S. 473, 484 (2000), a certificate of appealability is denied.

ENTER: This 26th day of September, 2018.


Chief United States District Judge